



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/933,567

08/20/2001

Nick Steele

17357.2.1

7300

22913 7590 11/01/2007

WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

EXAMINER

ROBINSON, GRETA LEE

ART UNIT

PAPER NUMBER

2168

MAIL DATE

DELIVERY MODE

11/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/933,567

Applicant(s)

STEELE ET AL.

Examiner

Greta L. Robinson

Art Unit

2168

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-9,11-13 and 63-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 7-9, 11-13 and 63-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 3-5, 7-9, 11-13 and 63-71 are pending in the present application.
2. Claims 5 and 7-8 have been amended.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4, 5, 8, 9, 12, 13, 63 and 65-69 are rejected under 35 U.S.C. 102(e) as being anticipated by Jenkins US Patent 6,285,983 B1.

CLAIM INTERPRETATIONS

5. On page 5 of the specification, Applicant describes "a comprehensive information profile disparate sets of consumer data preferably include those data repositories prepared by consumer data collection companies such ACNielsen of Stamford, Conn. And Information Resources, Inc. ("IRX") of Chicago, Ill. As well as many other third-party data repositories ... unique identifier may comprise the consumer's name, phone

number, email address or any other suitable identifier" (column 4, lines 41-53).

Therefore, the disclosure of Jenkins has been reasonably interpreted as being a type of "information accounts" as exemplified by Applicant.

6. On pages 6-7, Applicant describes "An exchange ... refers to a group of entities that are authorized to accept consumer information from the information account at the request of the consumer." Jenkins discloses "the marketing system ... accesses data from a wide range of data repositories 15, ... consumer profiles ... for example, include e-commerce sites (e.g. Amazon.com or Cdnw)..." Further, "the consumer has provided permission for the marketer to generate a message" based on the marketer's access to the above repositories (column 7 lines 9-42). Therefore, the disclosure of Jenkins has been reasonably interpreted as being a type of "exchange" as exemplified by Applicant.

7. Figure 1 of Jenkins has been interpreted as a distributed network, and "dATA REPOSITORIES" (block 15) has been reasonably interpreted as the required "central data repository" because repositories 15 of these disparate sets of consumer data preferably include those data repositories prepared by consumer data collection companies such ACNielsen of Stamford, Conn. And Information Resources, Inc. ("IRX") of Chicago, Ill.

PRIOR ART

8. In regard to claims 1, 5, 9, and 13, Jenkins discloses a computer implemented method, comprising the steps of:

Receiving consumer profile information over a distributed network at a host server (**column 4, lines 41-49, column 7, lines 9-18, and Figure 1**);

Transferring the consumer profile information from the host server to a central data repository for storage in a plurality of information accounts associated with a plurality of different consumers, logically associated with a plurality of exchanges, each information account associated with at least one exchange, wherein an exchange comprises a group of one or more servers that are authorized and configured to accept the consumer profile information from a particular information account at the request of the consumer (**column 4, lines 41-49, column 6, lines 29-30, especially, “consumer response to offers”, column 7 lines 9-18, especially, “from a wide range of data repositories ... Amazon.com”, and Figure 1, block 15**);

Receiving requests from the exchange at the host server for consumer profile information in specific information accounts (**column 5, lines 5-8, especially, “communicates the offer to an individual consumer ...” column 7 lines 19-42**);

Responding to said requests by retrieving some or all of the consumer profile information from said central data repository and conveying some or all of the consumer profile information to the requesting exchange, provided that the information account storing the consumer profile information is associated with the requesting exchange (**column 5, lines 5-58, especially, “marketers may access ... consumer class**

records ... in the individual records database ... enables a marketer to initiate an electronic offer ... directly to a group of individual consumers ...”).

9. In regard to claims 4, 8, and 11 Jenkins discloses requests are initiated from activity at user computers in communication with the exchanges over the distributed network **(as cited above, and Figure 1).**

10. In regard to claim 63, (Currently Amended) A system comprising:

a central data repository operable for receiving consumer information elements from a host server and storing a plurality of branded information accounts, relating to a plurality of different consumers, each branded information account **(column 5, line 14, especially, “preferred web portal” which is consistent with the exemplary disclosure of “brand” on page 26, [088])** comprising a plurality of said consumer information elements, stored in a tagged data format, associated with a consumer and an identification of a sponsor of the branded information account **(column 4, lines 41-49, column 6, lines 29-30, column 7, lines 9-18, especially, “Amazon.com ... Yahoo...”, and Figure 1);**

the host server configured for managing communications between the central data repository and network devices across a distributed network, the network devices comprising at least one client device and at least one vendor server, said client device executing a browser for interacting with a web page file hosted by said vendor server, wherein the vendor server is a member of an exchange comprising a logical grouping of

servers authorized to interact with one or more of the branded information accounts (column 6, line 66, to column 7, line 8, especially, “a web browser ... across the Internet, an extranet, and virtual private network”, and Figure 1); and

wherein said host server is further configured to retrieve selected consumer information elements from the central data repository in response to requests from the network devices, and to transmit the selected consumer information elements across the distributed network for use by the requesting network devices (column 5, lines 5-58, especially, “marketers may access ... consumer class records ... in the individual records database ... enables a marketer to initiate an electronic offer ... directly to a group of individual consumers ...”).

11. In regard to claims 65-69, Jenkins describe the claimed invention as cited above, especially, the cited “extranet” and “virtual private network” (column 7, lines 1-3).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

Art Unit: 2168

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 3, 7, 11, 64, 70, and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins US Patent 6,285,983 B1 as applied to claims 1, 4, 5, 8, 9, 12, 13, 63, and 65-69 above, and further in view of Bezos et al. US Patent 6,029,141A1(Bezos hereafter).

MOTIVATION TO COMBINE

15. Jenkins describes an invention to provide real-time marketing systems for creating marketing profiles by accessing data from a wide range of data repositories comprising data from Amazon.com for example (**column 2 lines 30-34**). Bezos describes Amazon.com with a registration process comprising marketing information (Abstract etc.) to efficiently market and sell goods via a Web site (**column 1, lines 50-55**). Therefore, one of ordinary skill in the art at the time of the invention would have been motivated by Bezos to improve the system of Jenkins to efficiently market and sell goods via a Web site.

PRIOR ART

16. In regard to claim 64, Jenkins discloses the claimed invention except for the limitation of “a vendor or entity that facilitates creation of the branded information account by the consumer”. Bezos describes the limitation of “a vendor or entity that facilitate creation of the branded information account by the consumer” (**Bezos et al., column 3, lines 8-25, column 6, lines 12-40 and column 9 lines 41-53**). Therefore, it would have been obvious to one of ordinary skill in the art to make and use the system of Jenkins with the vendor or entity that facilitate creation of the branded information account by the consumer of Bezos to efficiently market and sell goods via a Web site.

17. In regard to claims 3, 7, 11, 70, and 71, Jenkins describes the claimed invention except for the limitation of “transaction log ... to allow for compensation ...” Bezos describes the “transaction log ... to allow for compensation ...” (**column 2, lines 48-65, especially “shopping cart maintains a record ... then uses the information collected within the shopping cart to identify, and appropriately identify the account”, and column 7, lines 46-51, especially “monetary commissions” (percentage)**). Therefore, it would have been obvious to one of ordinary skill at the time of the invention to make and use the system of Jenkins with the “transaction log” of Bezos to efficiently market and sell goods via a Web site.

Response to Arguments

18. Applicant's arguments filed August 20, 2007 have been fully considered but they are not persuasive.

In the response Applicant argued. Jenkins does not suggest an exchange as claimed. Applicant's state the independent claims define an exchange as a group of one or more servers that are authorized and configured to accept consumer profile information. The examiner respectfully maintains the rejection. Note Jenkins teaches one or more marketers 30 may access the system 20 through a communications facility. Jenkins provides a communications link 57 that serves as a secure link to database records [see: col. 5 lines 5-21; and col.7 lines 19-42]. Applicant's argue the combination of Jenkins and Bezos fail to teach or suggest at least the features of: each information account being associated with at least one exchange, responding to requests from exchanges at the host, consumer profile information or Branded information accounts. Jenkins provides for account information associated with an exchange. Note, the "system and methods abstract from consumer profile records and securely index the class records created" abstract. Profiles are created and can be customized see col. 5 line 22-32. The system enables an electronic transfer over a secure server through use of customized profiles see col. 5 lines 33-44. Jenkins discloses the claimed invention except for the limitation of "a vendor or entity that facilitates creation of the branded information account by the consumer". Bezos describes the limitation of "a vendor or entity that facilitate creation of the branded information account by the consumer" (Bezoz et al., column 3, lines 8-25, column 6, lines 12-40 and column 9 lines 41-53).

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Underwood US Patent 7,100,195 B1

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571)272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2168

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Greta Robinson
Primary Examiner
October 26, 2007